



U.S. Department of Justice

*United States Attorney
Southern District of New York*

*The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007*

March 30, 2023

BY ECF

Honorable P. Kevin Castel
United States District Judge
Southern District of New York
Daniel Patrick Moynihan Courthouse
500 Pearl Street
New York, New York 10007

**Re: United States v. Mauricio Hernandez Pineda
 S4 15 Cr. 379 (PKC)
 United States v. Juan Orlando Hernandez, a/k/a "JOH,"
 S7 15 Cr. 379 (PKC)**

Dear Judge Castel:

The Government respectfully submits two protective orders for the Court's consideration, which concern the Government's anticipated production of certain classified information to defendants Mauricio Hernandez Pineda ("Pineda") and Juan Orlando Hernandez ("Hernandez")¹ pursuant to Section 3 of the Classified Information Procedures Act ("CIPA"). Counsel for Pineda consents to the entry of the proposed protective order relating to Pineda, which is attached hereto as Exhibit A. Counsel for Hernandez objects to the entry of the proposed protective order relating to Hernandez, which is attached hereto as Exhibit B and is substantively identical to the proposed protective order relating to Pineda attached as Exhibit A.

As reflected by the Court's March 15, 2023 Order (Dkt. No. 536), the Government previously advised the Court and defense counsel that it anticipated being in a position to produce certain classified material to cleared counsel for the defendants by April 1, 2023. The Government is prepared to do so and, with Pineda's counsel having consented to the proposed protective order appended as Exhibit A and provided the Government with a signed memorandum of understanding regarding the receipt of classified information, the Government expects to produce certain

¹ The Government understands that counsel for defendant Juan Carlos Bonilla Valladares is in the process of obtaining the requisite security clearance(s) in order to receive classified material but that process is not yet complete. Accordingly, the Government is not producing classified material to Bonilla's counsel at this time and will do so if and when counsel is cleared.

classified material to Pineda by April 1, 2023, consistent with the Government's previous correspondence and the Court's March 15 Order.

With respect to Hernandez, however, the Government is not prepared to produce classified information to cleared counsel until there is a protective order in place governing classified material, as provided for by Section 3 of CIPA, *see* 18 U.S.C. App. 3 § 3 (“[u]pon motion of the United States, the court shall issue an order to protect against the disclosure of any classified information disclosed by the United States to any defendant in any criminal case”). The Government anticipates Hernandez's counsel will advise the Court of the nature of counsel's objections to the protective order. The Government requests the opportunity to respond, and further requests that the Court resolve any such objections and enter a protective order, pursuant to CIPA Section 3, before the Government produces classified material to cleared counsel for Hernandez.

Respectfully submitted,

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cc: All Counsel (by ECF)